### UNITED STATES BANKRUPTCY COURT

#### FOR THE DISTRICT OF ARIZONA

# **Minute Entry**

#### Hearing Information:

**Debtor:** SUSAN SIMPSON

Case Number: 2:20-BK-02088-EPB Chapter: 13

Date / Time / Room: WEDNESDAY, APRIL 28, 2021 10:00 AM VIDEO CONF HRGS

Bankruptcy Judge: EDDWARD P. BALLINGER JR.
Courtroom Clerk: ANNETTE FRANCHELLO
Reporter / ECR: WESLEY STANGRET

#### Matter:

CONTINUED TRIAL ON OBJECTION TO DEBTOR'S FOURTH AMENDED CHAPTER 13 PLAN REGARDING FEASIBILITY FILED BY NEW HORIZONS ROTH 401K PROFIT SHARING PLAN, BRAD GILBERTSON AS TRUSTEE  $\mathbf{R}/\mathbf{M}$ #: 98 / 0

#### Appearances:

GARY R. STICKELL, ATTORNEY FOR SUSAN SIMPSON
DEAN O'CONNOR, ATTORNEY FOR NEW HORIZONS 401K PROFIT SHARING PLAN
WITNESSES:
SUSAN SIMPSON
BRAD GILBERTSON
BECKY YOUNG

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#### **Proceedings:**

The Court notes that Chase has filed an objection to confirmation.

Mr. Stickell has asked Mr. McDonald to correct the notice of mortgage to reflect the correspondence he has received from Chase. However, he has not done so. He notes that the letter from Chase has been marked into evidence as Exhibit D. He answers the Court's questions. He believes he can put on evidence today to show that the Debtor's fifth amended plan is confirmable.

Mr. O'Connor states that Chase's objection would have to be resolved before going forward to confirmation.

The Court states that considering what is on the docket as of today, the Debtor does not have the forbearance it needs or the ability to confirm a plan.

Mr. Stickell understands the Court's analysis and apologizes for not having Mr. McDonald present today.

Mr. O'Connor argues that the plan is not confirmable or feasible.

The Court and parties review docket #158, Chase's Objection to Fifth Modified Chapter 13 Plan filed by Mr. Leonard McDonald.

Mr. Stickell states that the objection does not represent what he received from Chase. He states that he has Exhibit D to support his position.

The Court and parties review Debtor's Exhibit D.

Mr. O'Connor has no objection to Debtor's Exhibit D.

**COURT: IT IS ORDERED** admitting Debtor's Exhibit D into evidence.

The Court notes that it cannot ignore Chase's filing.

Mr. Stickell will need to set a hearing on Chase's objection and attach his Exhibit D. He notes that he also has Exhibit E which is the Notice of Request for Mortgage Forbearance. He understands that he needs to resolve the objection with Chase before proceeding. He asks for one week to do so. He notes that he has complied with the Court's Order in not filing any pleadings.

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argues that Chase was not paid timely as required as well as his client.

Mr. Stickell responds stating that there is equity in Ms. Simpson's house to protect the creditor. He notes that the creditor is being paid monthly by the Chapter 13 trustee.

The Court provides its review of the matter and continues discussion with Mr. Stickell. Mr. Stickell will contact Mr. McDonald in effort to resolve the matter.

Mr. O'Connor agrees there is an equity cushion. He states that Ms. Simpson does not have a contract with the government related agency.

Mr. Stickell confirms that there is no written agreement. He states that Ms. Simpson will testify that they have not been able to finalize the contracts and because of the change in administration there has been a delay. He answers the Court's questions noting he will not file a sixth amended plan without the Court's permission.

The Court notes that either Mr. McDonald will agree with Mr. Stickell or not.

Mr. Stickell agrees and continues discussion with the Court. He intends to file a response to Chase's objection.

**COURT: IT IS ORDERED** lifting the restriction prohibiting Mr. Stickell from filing amendments to the plan. **IT IS FURTHERED ORDERED** continuing this matter to May 6, 2021 at 10:00 a.m. **IT IS FURTHER ORDERED** that Mr. Leonard McDonald, counsel for JPMorgan Chase Bank, must appear by Zoom. The Court will take judicial notice of docket #158, Chase's Objection to Fifth Modified Chapter 13 Plan filed by Mr. Leonard McDonald.

#### ZOOM INFORMATION IS AS FOLLOWS:

<a href="https://www.zoomgov.com/j/1609974784?pwd=ZEwxSzJQTzIMTDRid3VJd0Z6b2VTZz09">https://www.zoomgov.com/j/1609974784?pwd=ZEwxSzJQTzIMTDRid3VJd0Z6b2VTZz09">https://www.zoomgov.com/j/1609974784?pwd=ZEwxSzJQTzIMTDRid3VJd0Z6b2VTZz09</a>

Meeting ID: 160 997 4784

Passcode: 699155

Courtesy copy of minute entry emailed on 4-28-2021 to:

Leonard McDonald @ljm@tblaw.com